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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
MI, QIUWEN	

ART UNIT	PAPER NUMBER
1655	

MAIL DATE	DELIVERY MODE
04/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/579,461	BOWEN ET AL.	
	Examiner	Art Unit	
	QIUWEN MI	1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 March 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-48* is/are pending in the application.

4a) Of the above claim(s) *1-37 and 44-48* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *38-43* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 May 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *5/15/06; 3/12/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election of Group IV, claims 38-43, species trans-beta-ocimene, in the reply filed on 3/3//8 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims Pending

Claims 1-48 are pending. Claims 1-37, and 44-48 are withdrawn as they are directed toward a non-elected invention groups. Claims 38-43 are examined on the merits.

Specification/Abstract Objections

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

In the instant case, Applicant is required to delete "The present invention relates" on line 1; and "The present invention also relates to" on lines 2, 3, 5, and 6 of the Abstract to be more clear and concise. The first letters "the", "a", and "an" should be capitalized after the deletion.

Claim Rejections –35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 38, 39, 40, and 43 are rejected under 35 USC § 102 (b) as being anticipated by Zampino et al (US 5,177,057).

Zampino et al teach a mixture for perfumed articles including detergent (thus suitable for applying to surfaces that come into contact with barnacles), fabric softener compositions, hair preparations. The mixture comprises 2.5% trans-beta-ocimene, 9.64% geraniol (effector agent), and 17.8% unreacted linolool (carrier) etc (see Abstract; Table 1).

The intended use of the composition was analyzed for patentable weight. It is deemed that the preamble 'breathes life' into the claims in that the prior art product must not be precluded for use as an anti-barnacle composition. It is deemed that the composition disclosed by the cited reference is not precluded for carrying out the intended function of the claims.

Therefore, the reference is deemed to anticipate the instant claim above.

Claims 38, 39, 40, and 43 are rejected under 35 USC § 102 (b) as being anticipated by Hood (US 6,103,241).

Hood teaches the essential oil for treatment of ailments of human body, and is applied topically to relieve pan, minimize bruising and to assist in healing, and may be used either pure or in a carrier (col 1, lines 17-22), the composition comprises 0.65% trans-beta-ocimene, 1.24% limonene (an effector agent) (example 1).

The intended use of the composition was analyzed for patentable weight. It is deemed that the preamble 'breathes life' into the claims in that the prior art product must not be precluded for use as an anti-barnacle composition. It is deemed that the composition disclosed by the cited reference is not precluded for carrying out the intended function of the claims.

Therefore, the reference is deemed to anticipate the instant claim above.

Claim Rejections –35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zampino et al. (US 5,177,057).

Zampino et al teach a mixture for perfumed articles including detergent (thus suitable for applying to surfaces that come into contact with barnacles), fabric softener compositions, hair

preparations. The mixture comprises 2.5% trans-beta-ocimene, 9.64% geraniol (effector agent), and 17.8% unreacted linolool (carrier) etc (see Abstract; Table 1).

The intended use of the composition was analyzed for patentable weight. It is deemed that the preamble 'breathes life' into the claims in that the prior art product must not be precluded for use as an anti-barnacle composition. It is deemed that the composition disclosed by the cited reference is not precluded for carrying out the intended function of the claims.

Zampino et al do not teach a composition comprising 3-25 or 6-25% compound.

It would have been *prima facie* obvious for one of ordinary skill in the art at the time the invention was made to use the invention of Zampino et al since Zampino et al teach the mixture augments or enhances the aroma of perfume composition to produce a pleasant and desired fragrance (col 12, lines 60-69). Since the mixture yielded beneficial results in perfumed articles, one of ordinary skill in the art would have been motivated to make the modifications. Zampino et also teach that in the perfume compositions, it is the individual components contribute to its particular olfactory characteristics (col 13, lines 10-15), and slight variation in the time of reaction will cause the percentages of the ingredients of the mixture to vary (col 12, lines 35-40), thus regarding the limitation to the amount of the component in the composition, the result-effective adjustment in conventional working parameters is deemed merely a matter of judicious selection and routine optimization which is well within the purview of the skilled artisan, which is dependent upon the individual taste of the consumer.

From the teachings of the references, it is apparent that one of the ordinary skills in the art would have had a reasonable expectation of success in producing the claimed invention.

Thus, the invention as a whole is *prima facie* obvious over the references, especially in the absence of evidence to the contrary.

Claims 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hood (US 6,103,241).

Hood teaches the essential oil for treatment of ailments of human body, and is applied topically to relieve pan, minimize bruising and to assist in healing, and may be used either pure or in a carrier (col 1, lines 17-22), the composition comprises 0.65% trans-beta-ocimene, 1.24% limonene (an effector agent) (example 1). Hood also teaches the oil reduces pain from particularly insect and spider bites (col 1, lines 60-68).

The intended use of the composition was analyzed for patentable weight. It is deemed that the preamble 'breathes life' into the claims in that the prior art product must not be precluded for use as an anti-barnacle composition. It is deemed that the composition disclosed by the cited reference is not precluded for carrying out the intended function of the claims.

Hood does not teach a composition comprising 3-25 or 6-25% compound.

It would have been *prima facie* obvious for one of ordinary skill in the art at the time the invention was made to use the composition of Hood since Hood teaches the essential oils containing trans-beta-ocimene reduces pain and aids in the healing of skin. Since the compositions yielded beneficial results in pharmaceutical industry, one of ordinary skill in the art would have been motivated to make the modifications. Regarding the limitation to the amount of the component in the composition, the result-effective adjustment in conventional working

parameters is deemed merely a matter of judicious selection and routine optimization which is well within the purview of the skilled artisan, which is dependent on the plant species wherein essential oil derived from, and the distillation process from which the oil is produced.

From the teachings of the references, it is apparent that one of the ordinary skills in the art would have had a reasonable expectation of success in producing the claimed invention.

Thus, the invention as a whole is *prima facie* obvious over the references, especially in the absence of evidence to the contrary.

Conclusion

----------No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qiuwen Mi whose telephone number is 571-272-5984. The examiner can normally be reached on 8 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Qiuwen Mi

/Michele Flood/
Primary Examiner, Art Unit 1655